UNITED STATES COURT OF APPEALS for the NINTH CIRCUIT

Office of the Clerk

After Opening a Case – Counseled Immigration Cases
(revised December 2012)

Court Address – San Francisco Headquarters

Mailing Address for U.S. Postal Service	*Mailing Address for Overnight Delivery (FedEx, UPS, etc.)*	*Street Address*
Office of the Clerk James R. Browning Courthouse U.S. Court of Appeals P.O. Box 193939 San Francisco, CA 94119-3939	Office of the Clerk James R. Browning Courthouse U.S. Court of Appeals 95 Seventh Street San Francisco, CA 94103-1526	95 Seventh Street San Francisco, CA 94103

Court Addresses – Divisional Courthouses

Pasadena	*Portland*	*Seattle*
Richard H. Chambers Courthouse 125 South Grand Avenue Pasadena, CA 91105	Pioneer Courthouse 700 SW 6th Ave, Ste 110 Portland, OR 97204	William K. Nakamura Courthouse 1010 Fifth Avenue Seattle, WA 98104

Court Website – www.ca9.uscourts.gov

The Court's website contains the Court's Rules and General Orders, information about electronic filing of documents, answers to frequently asked questions, directions to the courthouses, forms necessary to gain admission to the bar of the Court, opinions and memoranda, recordings of oral arguments, links to practice manuals, and an invitation to join our Pro Bono Program.

Court Phone List

Main Phone Number	**(415) 355-8000**
Attorney Admissions	(415) 355-7800
Calendar Unit	(415) 355-8190
Docketing	(415) 355-7840
Electronic Filing – Appellate ECF	Send email to cmecf_ca9help@ca9.uscourts.gov
Library	(415) 355-8650
Mediation Unit	(415) 355-7900
Motions Attorney Unit	(415) 355-8020
Procedural Motions Unit	(415) 355-7860
Records Unit	(415) 355-7820
Divisional Court Offices:	
Pasadena	(626) 229-7250
Portland	(503) 833-5300
Seattle	(206) 224-2200

Electronic Filing - ECF

The Ninth Circuit's Appellate ECF (Electronic Case Files) system is mandatory for all attorneys filing in the Court, unless they are granted an exemption. All non-exempted attorneys who appear in an ongoing case are required to register for and to use the Appellate ECF system. Registration and information about ECF is available on the Court's website at www.ca9.uscourts.gov under *Electronic Filing–ECF*. Read the Circuit Rules, especially Ninth Circuit Rule 25-5, for guidance on Appellate ECF, including which documents can and cannot be filed electronically.

Rules of Practice

The Federal Rules of Appellate Procedure (Fed. R. App. P.), the Ninth Circuit Rules (9th Cir. R.) and the General Orders govern practice before this Court. The rules are available on the Court's website at www.ca9.uscourts.gov under *Rules*.

Practice Resources

The following resources are on the Court's website, www.ca9.uscourts.gov, under *FAQs, Forms and Instructions -> Guides and Legal Outlines*.

- The Court's Immigration Outline, providing a comprehensive discussion of applicable law.

- American Immigration Law Foundation's Practice Advisory on *How to File a Petition for Review* (August 2009), reprinted on the Court's website with permission.

- The Court's practice guide video entitled *Perfecting Your Appeal*. The video may be viewed for free on the Court's website at www.ca9.uscourts.gov and may be purchased through the Clerk's office in San Francisco for $15.00. Continuing legal education credit for viewing this videotape is available in most jurisdictions.

Admission to the Bar of the Ninth Circuit

All attorneys practicing before the Court must be admitted to the Bar of the Ninth Circuit. Fed. R. App. P. 46(a); 9th Cir. R. 46-1.1 & 46-1.2.

To apply for admission, obtain an application on the Court's website at www.ca9.uscourts.gov under *Forms* or by calling (415) 355-7800. If you are registered for the 9th Circuit's Appellate ECF system, upload your application and pay the $230.00 fee with a credit card by logging into Appellate ECF and clicking on Utilities > Attorney Admission. Otherwise, mail the application to the Clerk's Office in San Francisco with the admission fee of $230.00. Your check or money order must be included with the application.

Notice of Change of Address

Counsel who are registered for Appellate ECF must update their personal information, including street addresses and/or email addresses, online at: https://pacer.psc.uscourts.gov/psco/cgi-bin/cmecf/ea-login.pl 9th Cir. R. 46-3.

Counsel who have been granted an exemption from using Appellate ECF must file a written change of address with the Court. 9th Cir. R. 46-3.

Payment of Fees

The $450.00 filing fee or a motion to proceed in forma pauperis shall accompany the petition for review. 9th Cir. R. 3-1.

A motion to proceed in forma pauperis must be supported by the affidavit of indigency found at Form 4 of the Federal Rules of Appellate Procedure, available on the Court's website, www.ca9.uscourts.gov, under *Forms*.

Failure to satisfy the fee requirement or to apply to proceed without payment of fees will result in the petition's dismissal. 9th Cir. R. 42-1.

Motions Practice

Following are some of the basic points of motion practice, governed by Fed. R. App. P. 27 and 9th Cir. R. 27-1 through 27-13.

- Each motion in an immigration case must inform the Court whether petitioner is in the custody of the Department of Homeland Security or at liberty. 9th Cir. R. 27-8.2.
- Neither a notice of motion nor a proposed order is required. Fed. R. App. P. 27(a)(2)(C)(ii), (iii).
- Motions may be supported by an affidavit or declaration. 28 U.S.C. § 1746.
- Each motion should provide the position of the opposing party. Circuit Advisory Committee Note to Rule 27-1(5); 9th Cir. R. 31-2.2(b)(6).
- A response to a motion is due 10 days from the service of the motion. Fed. R. App. P. 27(a)(3)(A). The reply is due 7 days from service of the response. Fed. R. App. P. 27(a)(4); Fed. R. App. P. 26(c).
- A response requesting affirmative relief and/or relief by a date certain must

include that request in the caption. Fed. R. App. P. 27(a)(3)(B).

- A motion filed after a case has been scheduled for oral argument, has been argued, is under submission or has been decided by a panel, must include on the initial page and/or cover the date of argument, submission or decision and, if known, the names of the judges on the panel. 9th Cir. R. 25-4.

Emergency or Urgent Motions

All emergency and urgent motions must conform with the provisions of 9th Cir. R. 27-3. Note that a motion requesting procedural relief (e.g., an extension of time to file a brief) is *not* the type of matter contemplated by 9th Cir. R. 27-3. Circuit Advisory Committee Note to 27-3(3).

Prior to filing an emergency motion, the moving party *must* contact an attorney in the Motions Unit in San Francisco at (415) 355-8020.

When it is absolutely necessary to notify the Court of an emergency outside of standard office hours, the moving party shall call (415) 355-8000. Keep in mind that this line is for true emergencies that cannot wait until the next business day (e.g., an imminent execution or removal from the United States).

Motions to Stay Removal

The filing of a motion to stay removal temporarily stays the order of removal until further order of the Court. *Deleon v. INS*, 115 F.3d 643 (9th Cir. 1997); Ninth Circuit General Order 6.4(c)(1).

Any such motion must discuss the merits of the petition and the specific hardships that petitioner will suffer if removed. *Nken v. Holder,* 129 S. Ct. 1749 (2009).

If the motion to stay is filed with the petition for review, the briefing schedule will not be set until the Court resolves the motion. General Order 6.4(c)(1). If no motion to stay is filed with the petition for review, a briefing schedule will be set and there will be no stay in place. A later-filed motion to stay vacates the existing briefing schedule.

The response to the motion to stay is due 90 days from the filing of the motion (during which time petitioner is covered by the temporary stay described above).

If respondent fails to submit a response within the time set, the silence will be construed as a statement of non-opposition, a briefing schedule will be set and the stay will continue absent further order of the Court. General Order 6.4(c)(1). Any reply is due 7 days from service of an opposition.

Briefing Schedule

The briefing schedule is set when the Court dockets the petition for review, unless a motion to stay removal is filed with the petition. If a stay motion is filed, the briefing schedule is set after disposition of the motion.

Certain motions (e.g., a motion to dismiss the case) automatically stay the briefing schedule. 9th Cir. R. 27-11.

The briefing schedule is dependent upon the respondent's timely filing of the certified administrative record. If the record is late, the Court will revise the schedule; no motion by petitioner is necessary.

The opening and answering brief due dates (and any other deadline set for a date certain by the Court) are not subject to the additional time described in Fed. R. App. P. 26(c). The early filing of petitioner's opening brief does not advance the due date for respondent's answering brief. 9th Cir. R. 31-2.1.

Extensions of Time to file a Brief

Streamlined Request
If you have not yet asked for any extension of time to file the brief, you may request one streamlined extension of up to 30 days from the brief's existing due date. Submit your request via the Appellate ECF system using the "File a Streamlined Request to Extend Time to File Brief" event on or before your brief's existing due date. No form or written motion is required.

Written Extension
Requests for extensions of more than 14 days will be granted only upon a written motion supported by a showing of diligence and substantial need. This motion shall be filed at least 7 days before the due date for the brief. The motion shall be accompanied by an affidavit or declaration that includes all of the information listed at 9th Cir. R. 31-2.2(b).

The Court will ordinarily adjust the schedule in response to an initial motion. Circuit Advisory Committee Note to Rule 31-2.2. The Court expects that the brief will be filed within the requested period of time. *Id.*

Contents of Briefs

The required components of a brief are set out at Fed. R. App. P. 28 and 32, and 9th Cir. R. 28-2, 32-1 and 32-2.

Additionally, an opening brief filed in a petition challenging a decision of the Board of Immigration Appeals must state whether petitioner (1) is detained in the custody of the Department of Homeland Security or at liberty and/or (2) has moved the Board of Immigration Appeals to reopen or applied to the district director for an adjustment of status. 9th Cir. R. 28-2.4(b).

The petitioner's opening brief must include an addendum, bound with the brief, containing all orders of the immigration court and BIA that are being challenged. 9th Cir. R. 28-2.7. The opening brief need not be accompanied by Excerpts of Record. 9th Cir. R. 17-1.2(b).

Mediation Program

Petitioners in immigration cases are not required to file a Mediation Questionnaire, the document used for an initial assessment for mediation. From time to time, however, the Court may direct the parties to confer with a Court Mediator.

If you are interested in requesting a conference with a Mediator, you may call the Mediation Unit at (415) 355-7900, email ca09_mediation@ca9.uscourts.gov or make a written request to the Chief Circuit Mediator. Circuit Advisory Committee Note to Rule 15-2. You may request conferences confidentially. More information about the Court's mediation program is available at http://www.ca9.uscourts.gov/mediation.

Oral Hearings

Notices of the oral hearing calendars are distributed approximately 4 to 5 weeks before the hearing date. The Court sits monthly in San Francisco, Pasadena and Seattle. The Court sits in Portland every other month, depending on caseload. The

Court also hears cases 3 times a year in Honolulu and once a year in Anchorage.

The Court will change the date or location of an oral hearing only for good cause, and requests to continue a hearing filed within 14 days of the hearing will be granted only upon a showing of exceptional circumstances. 9th Cir. R. 34-2.

Oral hearing will be conducted in all cases unless all members of the panel agree that the decisional process would not be significantly aided by oral argument. Fed. R. App. P. 34.